

**REMARKS**

Entry of the foregoing and continued reexamination of this application as amended December 28, 2004 and as further amended hereinabove are requested pursuant to 37 C.F.R. §1.114 and in light of the following remarks.

The Examiner refused to enter the amendments set forth in the Reply and Amendment After Final Rejection filed December 28, 2004 because they purportedly raise new issues that would require further consideration and/or search and they purportedly present additional claims without canceling a corresponding number of finally rejected claims. In light of the filing of this Request for Continued Examination, these issues are moot and the Examiner is asked to consider the claims as amended December 28, 2004, and as further amended hereinabove.

The Examiner further indicated in the Advisory Action that Claim 49 should have been indicated as withdrawn from consideration. Applicants note, however, that the July 28, 2004 Official Action/Final Rejection, which is the most recent Official Action, lists only Claims 5-7, 30 and 44-46 as withdrawn from consideration, and those claims were indeed proposed to be cancelled in the December 28, 2004 response. Claim 49, on the other hand, was indicated as being rejected.

In the Advisory Action, the Examiner also indicated that the request for consideration did not put the application in condition for allowance for reasons set forth in the prior Office Action. In particular, the Examiner believes that the dispersed phase disclosed in Lochhead would read on any micronized active ingredients, in the form of droplets and/or particles. This is simply not true. See the discussion of Lochhead on pages 20-22 of the December 28, 2004 response. Lochhead describes a fast-breaking composition which is an oil-in-water emulsion.

Oil-in-water emulsions contain discrete droplets or particles of oil in a continuous water phase. Lochhead teaches this and it is indeed well-known in the art.

Further, by the foregoing amendment, all independent claims have been amended to specify that, in applicants' oil-in-water emulsion, the emulsifying system (b) now comprises at least one polymer as originally defined in Claim 3 and at least one surfactant emulsifier as previously specified in original Claim 11. The composition herein therefore cannot be a "quick-breaking" composition as described by Lochhead as the emulsifying system in Lochhead only contains Pemulen.

Further, applicants are providing the following additional explanation and picture showing an emulsion according to the present invention, in which active agent particles and oil droplets of the emulsion are two distinct kinds of particles in the composition.

- **Definition of an Emulsion**

An emulsion is defined as a dispersion of **two liquid form** components. Oil-in-Water emulsions contain droplets of oil (liquid form) dispersed in a continuous water phase (liquid form). The particle size of the Oil/Water emulsion is related to the mean size (diameter) of the **liquid oil droplets**.

- **Compositions of the invention**

The compositions described in the present patent application are related to Oil-in-Water emulsion systems (as described previously) containing, in addition, a **solid form** of a micronized active ingredient dispersed in the said emulsions. The particle size of the dispersed active ingredient is related to the mean size of **the solid particles** (for simplification the mean shape of the solid particles is considered as a sphere).

Both aspects (emulsion and solid dispersion of active ingredient) of the described systems are shown on the attached microscopic picture, where the pink color is due to a specific filter on the microscope.

It is apparent from the attached microscopic picture of applicants' emulsion that the oil droplets and the solid particles of the active ingredients dispersed in the emulsion are two different entities entirely. Lochhead does not have solid particles of active ingredients dispersed in his emulsion, nor does any other reference cited herein. Moreover, by the foregoing amendment incorporating not only the polymer of original Claim 3 but also the additional surfactant emulsifier of original Claim 11 into all of the claims, applicants' emulsion cannot be a fast-break emulsion as described by Lochhead.

In view of the foregoing, it is believed that all of the claims remaining in this application are patentable over the art of record. Further, favorable action in the form of a Notice of Allowance is believed to be next in order and is earnestly solicited.

Respectfully submitted,

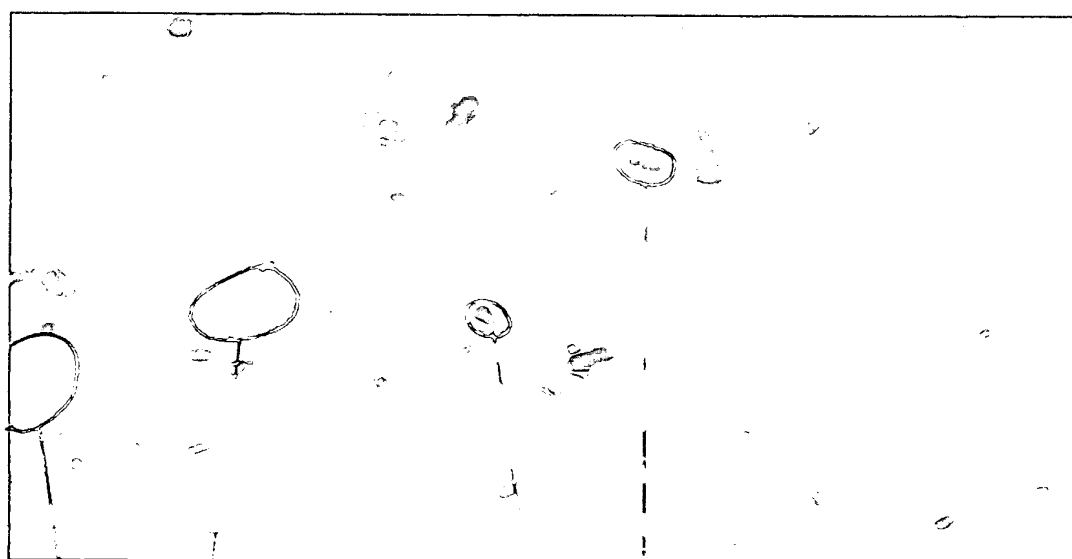
BURNS, DOANE, SWECKER & MATHIS, L.L.P.

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By: Mary Katherine Baumeister  
Mary Katherine Baumeister  
Registration No. 26,254

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

Attachment: microscopic picture



◦Spherical oil droplets  
of the emulsion

◦White Solid particles of  
active ingredient dispersed  
in the emulsion